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File No. [illegible]

[illegible] DEPARTMENT

[illegible] BRANCH

P. 12-E

Subject:—

Government Bill No. [illegible] of 1942.

A Bill to [illegible]

[illegible]

[illegible], 1942.

Insertion [illegible]

Item. IV [illegible]

File No. [illegible]

Stl. Scott. Slip 21-B

19[illegible]

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A.K.
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2/5

K.S.R.
2/5

Office of the R.L.A.

It does not appear that the amendments suggested in paras.6 and 7 of G.D. note dated 16th May 1941. (pp.7-8) would be suitable. If the definition of the expression "local authority" is amended on the lines suggested by G.D. several consequential amendments would be necessary, e.g. in sections 4,9,15A(1) proviso, 41, 39(2) etc. The object can however be achieved by inserting a new section 51A as in the appended draft Bill. Under section 179(3)(c) of the Bombay ~~xxx~~ District Municipal Act, and section 319(2)(c) of the Bombay Municipal Boroughs Act, all the property vested in a municipality which is superseded or dissolved vests during the period of supersession or dissolution in His Majesty. Sections 24(2) and 41(a) of the Bombay Town Planning Act, 1915, provide for vesting of certain properties in the local authority. It is necessary to provide that such property shall during the period of the supersession or dissolution of a municipality vest in His Majesty and thereafter in the municipality. Clause (b) of the new section 51A in clause 2 of the draft Bill provides accordingly.

2. Under executive instructions the Bill requires the previous approval of the Governor General before its enactment. The Bill falls under entries 13, 14 and 21 in the Provincial Legislative List and entry 8 in the Concurrent Legislative List in the Seventh Schdule to the Government of India Act, 1935. Clause 2 of the draft Bill provides for vesting of the property in His Majesty during the period of the supersession or dissolution of a municipality. The provision is repugnant to the existing provisions of sections 24 and 41 of the Bombay Town Planning Act. The Bill therefore requires to be reserved for consideration of the Governor General with reference to the provisions of section 107(2) of the Government of India Act.

3. The Advocate General is requested to advise whether the draft Bill would be suitable in order to achieve the object.

S.A.K.
30-4

in view .

P.N.Moos,

Remembrancer of Legal Affairs.

U.R. to the Advocate General, No. 7145, dated the 13th August 1941.

S.A.K.
30-4

I have made alterations in the draft Bill in pencil.

2. I agree with the view of the R. L. A. in para 2 of his Note.

sd/-

Advocate General.

25-8-41.

S.A.K.

30-4

Office of the R.L.A.

It does not appear that the amendments suggested in paras. 6 and of G.D. note dated 16th May 1941 (p. 7-8) would be suitable. If the definition of the expression "local authority" is amended on the lines suggested by G.D.several consequential amendments would be necessary, e.g. in sections 4,9,154(1) proviso, 41, 39(2) etc. The object can however be achieved by inserting a new section 51A as in the appended draft Bill. Under section 179(3)(c) of the Bombay District Municipal Act, and section 219(2)(c) of the Bombay Municipal Boroughs Act, all the property vested in a municipality which is superseded or dissolved vests during the period of supersession or dissolution in His Majesty. Sections 24(2) and 41(a) of the Bombay Town Planning Act, 1915, provide for vesting of certain properties in the local authoruty. It is necessary to provide that such property shall during the period of the supersession or dissolution of a municipality vest in His Majesty and thereafter in the municipality. Clause (b) of the new section 51A in clause 2 of the draft Bill provides accordingly.

2. Under executive instructions the Bill requires the previous approval of the Governor General before its enactment. The Bill falls under entries 13,14 and 21 in the Provincial Legislative list and entry 8 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. Clause 2 of the draft Bill provides for vesting of the property in His Majesty during the period of the supersession or dissolution of a municipality. The provision is repugnant to the existing provisions of sections 24 and 41 of the Bombay Town Planning Act. The Bill therefore requires to be reserved for consideration of the Governor General with reference to the provisions of section 107(2) of the Government of India Act.

3. The Advocate General has approved the Bill.

~~G.G.~~ sd/- P.N.Moos
29/8

Remembrancer of Legal Affairs.

U.R. to G.D. No. 248-L dated the 29th August 1941.

S.A.K.
30-4

STATEMENT.

When a municipality is superseded under section 179(1) of the Bombay District Municipal Act, 1901, or dissolved or superseded under section 219(2) of the Bombay Municipal Boroughs Act, 1925, the Administrator appointed to carry on the administration of the municipality has power to exercise all the powers and perform all the duties of the local authority. It however, appears that the Administrator of a superseded municipality cannot carry out Town planning Schemes under the Bombay Town Planning Act, 1915, as it stands at present. In the opinion of Government town planning, especially in relation to the clearance of slums, is one of the most important functions or a municipality and should, whenever necessary, be undertaken by the Administrator during the period of supersession or dissolutionof a municipality. It is, therefore, proposed to amend the Bombay Town Planning Act, 1915, suitably to confer the necessary powers on the Administraertor to undertake Town Planning Schemes during the period of supersession or dissolution of any municipality.

S.A.K.
30-4

No. 1117

Legal Department,

Bombay Castle, 6th February 1942.

From

P.N.Moos, Esquire, Bar-at-Law, I.C.S.,

Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Town Planning Act, 1915.

Sir,

With reference to your Memorandum No. 201(39), dated the 7th October 1941, addressed to the General Department, on the above subject, I am directed to forward herewith a copy of the Bill to amend the Bombay Town Planning Act, 1915, prepared by His Excellency the Governor of Bombay under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a),(b),(c) or (d) of Paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3, The subject-matter of the Bill falls under entries 13,14and 21 in the Provincial Legislative list and entry No. 8 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935.

4. Clause 2 of the Bill provides for vesting of the property in His Majesty during the period of the supersession or dissolution of a municipality . This provision is repugnant to the existing provision contained in sections 24 and 41 of the Bombay Town Planning Act, 1915, which is an existing Indian law relating to entry No. 8 in the Concurrent Legislative List. The Bill will have

therefore to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act. 1935.

5. I also forward herewith six spare copies of the Bill, out of which five copies are for transmission to the Secretary to the Governor General (Public).

I have the honour to be,

Sir,

Your most obedient servant,

~~O.C.~~ sd/- P.N.Moos,

5-2

Secretary to the Government of Bombay.
Legal Department.

Through The Secretary to the Government of Bombay ,

General Department.

S.A.K.
30-4

Legal Department.

The Bill to amend the Bombay Town Planning Act, 1915, has been forwarded separately through the General Department to the Secretary to the Governor for obtaining the assent of His Excellency the Governor General to the Bill.

2. A draft notification under section 92(1) of the Government of India Act, 1935, for applying the proposed Act to the partially excluded areas in this Province is furnished herewith to the General Department. If it is decided to apply the Act to the said areas, the notification should be published in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government Gazette.

3. Attention of the General Department is requested to this Department Circular No. 7627, dated the 29th August 1941. In this case orders of Government whether the Act should be applied to the partially excluded areas in this Province should have been obtained and communicated to this Department at the time of forwarding the papers for obtaining assent to the Bill.

O.C. sd/-

For Secretry to Government,
Legal Department.

U.R. to G.D.,No. 1118, dated the 6th February 1942.

S.A.K.

30-4

NOTIFICATION.

General Department.

Bombay Castle, February 1942.

No. :- In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Town Planning (Amendment) Act, 1942(Bom.** of 1942) shall apply to the partially excluded areas in the rovince of Bomb-y.

**To Be filled in by G.D.

By order of the Governor of Bombay

Secretary to Government.

B.A.K.

30-4

No. 201(39)

Office of the Governor's Secretary,
Government House,
Bombay , 6th March 1942.

From

J.B.Irwin, Esquire, DSO.MC. ICS.

Secretary to the Governor of Bombay.

To

The Secretary to Government,

Legal Department, Bombay.

Subject:- The Bombay Town Planning (Amendment) Bill,1942.

Sir,

With reference to your letter No. 1117, dated the 6th February 1942, on the above subject, I am directed to forward herewith the copy of the Bill to amend the Bombay Town Planning Act, 1915, with His Excellency the Governor-General's assent signified thereon.

I have the honour to be,

Sir,

Your most obedient servant ,

Sd/-

Secretary to the Governor of Bombay.

S.A.T.
30-4

Acts.

Publication of the Bombay Town Planning (Amendment) Act, 1942.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 2116
Bombay Castle, 10th March 1942.

Letter to the Secretary to the Governor No. 1117 dated the 6th February 1942.

Letter from the Secretary to the Governor No. 201(39) dated the 6th March 1942.

"With reference to your letter No. 1117, dated the 6th February 1942, on the above subject, I am directed to forward herewith the copy of the Bill to amend the Bombay Town Planning Act, 1915, with His Excellency the Governor-General's assent signified thereon."

RESOLUTION.:- The law should be published as Bombay Act No. IV of 1942, in the Bombay Government Gazette dated the 10th March 1942.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the General Department with reference to the Memorandum from that Department No. 4066/33-A dated the 17th January 1942.

By order of the Governor of Bombay,

Sd/-
(P.N.Moos,
For (Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).
The General Department. } With
*The Oriental Translator to Government } copy
The Secretary to the Bombay Legislative Council. } of the
The Secretary to the Bombay Legislative Assembly. } Act.

*With five extra copies.

S.A.K.
30-4

Act No IV

GOVERNOR'S ~~BILL No.~~ III OF 1942. Act

A Bill to amend the Bombay Town Planning Act, 1915.

WHEREAS it is expedient to amend the Bombay Town Planning Act, 1915, for the purposes hereinafter appearing; Bom. I of 1915.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature; 26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the Bombay Town Planning (Amendment) Act, 1942. Short title.

2. In the Bombay Town Planning Act, 1915, Bom. I of 1915. after section 51, the following new section shall be inserted, namely:— Insertion of new section 51-A in Bom. I of 1915.

"51-A. Where a municipality is superseded under sub-section (*1*) of section 179 of the Bombay District Municipal Act, 1901, Bom. III of 1901. or dissolved or superseded under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925, Bom. XVIII of 1925.— Special provision in case of a municipality which is superseded or dissolved.

(*a*) the person or persons appointed under clause (*b*) of sub-section (*3*) of the said section 179 of the Bombay District Municipal Act, 1901, Bom. III of 1901. or under clause (*b*) of sub-section (*2*) of the said section 219 of the Bombay Municipal Boroughs Act, 1925, Bom. XVIII of 1925. as the case may be, shall be deemed to be a municipality within the meaning of section 2 (*a*) of this Act, and may exercise all the powers and perform all the duties of a local authority under this Act during the period of supersession or dissolution of such municipality;

(*b*) in the event of a person or persons appointed as aforesaid exercising the powers and performing the duties of a local authority under this Act, any property which may under the provisions of this Act vest in the local authority exercising such powers and performing such duties, shall, during the period of supersession or dissolution of the municipality, vest in His Majesty; and, such property shall, at the end of the said period, vest in such municipality as the Provincial Government may, by notification in the Official Gazette, direct."

STATEMENT.

When a municipality is superseded under section 179 (*1*) of the Bombay District Municipal Act, 1901, or dissolved or superseded under section 219 (*1*) of the Bombay Municipal Boroughs Act, 1925, the Administrator appointed to carry on the administration of the municipality has power to exercise all the powers and perform all the duties of the local authority. It, however, appears that the Administrator of a superseded municipality cannot carry out Town Planning Schemes under the Bombay Town Planning Act, 1915, as it stands at present. In the opinion of Government town planning, especially in relation to the clearance of slums, is one of the most important functions of a municipality and should, whenever necessary, be undertaken by the Administrator during the period of supersession or dissolution of a municipality. It is, therefore, proposed to amend the Bombay Town Planning Act, 1915, suitably to confer the necessary powers on the Administrator to undertake Town Planning Schemes during the period of supersession or dissolution of any municipality.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.